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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,623	11/26/2003	Girish T. Dalal	201TR032	7109
37535	7590	05/01/2008		
LEGAL DEPARTMENT LUBRIZOL ADVANCED MATERIALS, INC 9911 BRECKSVILLE ROAD CLEVELAND, OH 44141-3247			EXAMINER PENG, KUO LIANG	
			ART UNIT 1796	PAPER NUMBER
			MAIL DATE 05/01/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/722,623

**Applicant(s)**

DALAL ET AL.

**Examiner**

Kuo-Liang Peng

**Art Unit**

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 4/11/08 RCE.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 6-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 11, 2008 has been entered. Claims 6-18 are withdrawn. Now, Claims 1-5 are pending for consideration.

### ***Claim Rejections - 35 USC § 103***

2. Rejection of Claims 1-5 under 35 USC 103(a) as being unpatentable over Deterrmann (US 5 912 277) as evidenced by Gray (US 4 123 376) and optionally Eshuis (US 5 635 588) is maintained because the rejection is adequately set forth in paragraph 4 of Paper No. 101307. Applicant's arguments have been fully considered but they are not persuasive. The focus argument related to the core patentability is discussed below.

For Applicants' argument (Remarks, 3<sup>rd</sup> paragraph), it appears that the scope of the zeolite's mean particle size is not commensurate with that claimed, i.e., no criticality of the claimed range shown. For example, the employment of a zeolite

with mean particle size of about 1.50 might also substantially deteriorate the izod impact strength.

3. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lepilleur (US 6 306 945) in view of Detterman.

Lepilleur discloses a composition comprising a chlorinated polyvinyl chloride (CPVC) and an aluminosilicate zeolite. (col. 3, line 39 to col. 7, line 5) The chlorine content and the intrinsic viscosity of the CPVC are further elaborated in col. 4, line 36 to col. 5, line 14. The amount, basic formula, mean particle size, water content of the aluminosilicate are described in detail in col. 5, line 5 to col. 7, line 5 and Examples. Stabilizers such as tin stabilizer, etc. can also be employed. (col. 8, line 32 to col. 9, line 5) Lepilleur is silent on the amount of these stabilizers. However, Lepilleur teaches that the amounts of these stabilizers are dependent upon the end use of the CPVC. (col. 8, lines 24-30) Furthermore, the amount can affect the stability of the composition, which is indeed a Result-Effective variable. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to utilize these stabilizers in whatever amount through routine experimentation in order to afford a composition with a desired stability. Especially, Applicants do not show the criticality of the

stabilizer amount. See MPEP 2144.05 (II). In addition, Lepilleur teaches the use of **acrylic** impact modifiers, methacrylate-butadiene-styrene (**MBS**), etc. (col. 9, line 56 to col. 10, line 29) The amount of the impact modifiers can be found in Examples. Also, Lepilleur discloses that **other impact modifiers** in addition to the aforementioned ones can be employed. (col. 10, lines 30-42) Lepilleur is silent on the claimed impact modifier. However, Detterman teaches the equivalence/interchangeability of **acrylic, MBS, silicone rubber/acrylic copolymer** as effective impact modifiers in a CPVC composition that is **substantially similar** to Lepilleur's disclosure. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the silicone rubber/acrylic copolymer in lieu of or in addition to Lepilleur's acrylic and/or MBS impact modifiers with expected success. Especially, Detterman is in the same field as that of Lepilleur's endeavor.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kuo-Liang Peng whose telephone number is (571) 272-1091. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Seidleck, can be reached on (571) 272-1078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

klp  
April 25, 2008

/Kuo-Liang Peng/  
Primary Examiner, Art Unit 1796